IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 1489 of 2005

Between:

Dr.T.Krishna Reddy, s/o late Malla Reddy,
Corporation, r/o H.No.16-11-20-6/4, Saleemnagar, Malakpet, Hyderabad.

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad, Near Tank Bund, Hyderabad rep.,

by its Commissioner.
2 Smt.B.Vasundara Bai, w/o Sri Hanumantha rao,
R/o H.No.16-11-20/6/4/3/A/2, 16-11-20/6/4/A, Gafurbagh, Saleemnagar

Colony, Malakpet, Hyderabad.
3 Smt.N.Subhadra Bai, w/o Sri N.Narasimha Rao,
R/o H.No.16-11-20/6/4/3/A/2, 16-11-20/6/4/A, Gafurbagh, Saleemnagar

Colony, Malakpet, Hyderabad.
4 Smt.D.Vasantha, w/o Sri D.Sudhakar Rao,
R/o H.No.16-11-20/6/4/3/A/2, 16-11-20/6/4/A, Gafurbagh, Saleemnagar

Colony, Malakpet, Hyderabad.
5 Sri B.Srinivasa Rao, s/o late Sri Venkateshwar Rao,
R/o H.No.16-11-20/6/4/3/A/2, 16-11-20/6/4/A, Gafurbagh, Saleemnagar

Colony,Malakpet, Hyderabad.
6 Smt.Neelima Kulkarni, w/o Sri K.Umakanth Rao,
R/o H.No.16-11-20/6/4/3/A/2, 16-11-20/6/4/A, Gafurbagh, Saleemnagar

Colony, Malakpet, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly are in the nature of writ of mandamus declaring the action of the respondents 2 to 6 in constructing the stilt and 5 upper floors in H.No.16-11-20/6/4/3/A/2 & H.No.16-11-20/6/4/A situated at Gafurbagh, Saleemnagar Colony, Malakpet, Hyderabad in violation of the permit No.25/56 dt.20-10-2004 in File No.420/CSC/TP1/2004 dated 20-09-2004 of the respondent No.1 as evidence in the Counter Affidavit filed by the respondent No.1 in I.A.No.1275 of 2004 in O.S.No.3693 of 2004 on the file of the learned VII Senior Civil Judge, City Civil Court, Hyderabad as arbitrary, illegal and is liable to be demolished and consequently direct the demolition of the structures in accordance with law and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.ASHOK ANAND KUMAR

Counsel for the Respondent No.1: MR.RAMA RAO GHANTA

Counsel for the Respondent Nos.2 to 6: --

The Court at the admission stage made the following:

ORDER:

This writ petition is filed seeking a declaration that the alleged action of the respondents 2 to 6 in constructing the stilt and 5 upper floors in H.No.16-11/20/6/4/3/A/2 and H.No.16-11-20/6/4/A situated at Gafurbagh, Saleemnagar Colony, Malakpet, Hyderabad in violation of Permit No.25/56, dated 20.10.2004 in File No.420/CSC/TPI/2004, dated 20.09.2004 is arbitrary and illegal.

In the affidavit filed in support of the writ petition, it is stated that since the respondents 2 to 6 have been proceeding with the illegal constructions, the petitioner made a representation dated 12.01.2005 brining the said fact to the notice of the first respondent-Corporation and requesting to remove the said illegal constructions immediately, however, there is no response. Hence, this writ petition.

It is not in dispute that the respondents 2 to 6 herein filed O.S.No.3693 of 2004 on the file of the VII Senior Civil Judge, City Civil Court, Hyderabad against the first respondent-Corporation and they also sought a temporary injunction restraining the first respondent-Corporation from interfering with the construction or demolition of the suit schedule property bearing Municipal No. 16-11-20/6/4/3/A or any part of the suit schedule land which is the subject matter of this writ petition and a temporary injunction granted by the said Court is in operation. The petitioner does not dispute the said fact, but contends that by virtue of the said order of injunction, the first respondent-Corporation has been restrained only from demolishing

the constructions already made, but the first respondent-Corporation is not restrained from taking the necessary steps so far as the further constructions being made by the respondents 2 to 6. The learned Counsel for the petitioner points out that in the counter filed in I.A.No.1275 of 2004 in O.S.No.3693 of 2004, the first respondent-Corporation while denying the plea of the respondents 2 to 6 that they are making the constructions in accordance with the sanctioned plan, categorically stated that the respondents 2 to 6 have commenced the construction work without issuing a notice under Section 440 of the Hyderabad Municipal Corporation Act. In the circumstances, the learned counsel for the petitioner contends that notwithstanding the pendency of the civil suit, the writ petition is maintainable and it is necessary to issue directions restraining the respondents 2 to 6 from proceeding with the further constructions.

Having heard the learned Counsel for the petitioner and the learned Standing Counsel for 1st respondent Corporation, without expressing any opinion as to the correctness of the allegations made by the petitioner, the Writ Petition is disposed of with a direction to the 1st respondent to consider the representation of the petitioner dated 12-01-2005 and to take necessary action in accordance with law after affording due opportunity to the respondents 2 to 6 to rebut the allegations made, if there is no order operating in O.S.No.3693 of 2004 restraining the first respondent-Corporation from taking action against the respondents 2 to 6 so far as the alleged illegal constructions being made by them. No costs.

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07.02.2005

VGB

To

1 The Commissioner, Municipal Corporation of Hyderabad, Near Tank Bund, Hyderabad

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